



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/595,791

05/11/2006

Wolfgang Semmlinger

72086

6743

23872 7590 09/14/2009
MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH STATION
SCARBOROUGH, NY 10510-9227

EXAMINER

PATEL, DEVANG R

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

09/14/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WOLFGANG SEMMLINGER, OTMAR FISCHER,
GUNTER ZOTT and RUDOLF HUBER

Application No. 10/595,791
Technology Center: 1700

Mailed: September 14, 2009

Before GLORIA HENDERSON, *Review Team Paralegal*
HENDERSON, *Review Team Paralegal*.

This application was received electronically at the Board of Patent Appeals and Interferences on August 24, 2009. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

APPEAL BRIEF/GROUNDS OF REJECTION

On March 12, 2009, appellants filed an Appeal Brief. A review of the file reveals that under the Grounds of Rejection to be Reviewed on Appeal, states that Claims 1-5, 7-11 and 13-21 are rejected under 35 U.S.C. 103(a)....., which is not consistent as amended in the Amendment filed December 11, 2008. An Advisory Action filed by the examiner on December 23, 2008, states that the amendment would be entered. The amendment filed October 9, 2007 canceled claims 8 and 20. Appropriate correction is required, for clarification of the record.

A Supplemental Appeal Brief is required for the Grounds of Rejection to be Reviewed on Appeal.

EXAMINER'S ANSWER/GROUNDS OF REJECTION

Also, the Examiner's Answer mailed May 5, 2009 is defective, since it states under the Grounds of Rejection that Claims 1-5, 7, 9-11 and 13-21 are rejected under 35 U.S.C. 103(a)..... The amendment filed December 11, 2008⁷ canceled claim 20. Appropriate correction is required, for clarification of the record.

CONCLUSION

Accordingly, it is

ORDERED that the application is being electronically returned to the Examiner:

- 1) 1) to hold the Appeal Brief filed March 12, 2009, defective;
- 2) notify appellants to file a Supplemental Appeal Brief with a the correct information for the Grounds of Rejection and the Argument section of the Appeal Brief;
- 3) consider the Supplemental Appeal Brief and if the Supplemental Appeal Brief is in compliance, issue and mail a Form PTOL-90 acknowledging receipt and consideration of the Supplement Brief;
- 4) vacate the Examiner's Answer mailed May 5, 2009, and mail a Supplemental Examiner's Answer with the correct information for the claims under the Grounds of Rejection; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-979.

/GJH/

MCGLEW & TUTTLE, PC
P.O. BOX 9227
SCARBOROUGH, NY 10510-9227